

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

Table of Contents

No.	Clause Title	Page
1.	LANL 101, Definitions (Apr 2006)	2
2.	LANL 102, Assignment of Subcontracts (Apr 2006)	2
3.	LANL 103-A, Disputes (Apr 2006)	2
4.	LANL 105, Whistleblower Protection for Subcontractor Employees (Mar 2003)	2
5.	LANL 106, LANS' Right to Offset (Apr 2006).....	2
6.	LANL 107, Clauses Incorporated by Reference (May 2006).....	2
6-1	FAR 52.222-6, Davis-Bacon Act (Jul 2005).....	2
6-2	FAR 52.222-7, Withholding of Funds (Feb 1988)	2
6-3	FAR 52.222-8, Payrolls and Basic Records (Feb 1988).....	2
6-4	FAR 52.222-9, Apprentices and Trainees (Jul 2005)	2
6-5	FAR 52.222-10, Compliance with Copeland Act Requirements (Feb 1988)	2
6-6	FAR 52.222-11, Subcontracts (Labor Standards) (Jul 2005)	2
6-7	FAR 52.222-12, Contract Termination--Debarment (Feb 1988).....	2
6-8	FAR 52.222-13, Compliance with Davis-Bacon and Related Act Regulations (Feb 1988)	2
6-9	FAR 52.222-14, Disputes Concerning Labor Standards (Feb 1988).....	2
6-10	FAR 52.222-15, Certification of Eligibility (Feb 1988).....	2
6-11	FAR 52.222-21, Prohibition of Segregated Facilities (Feb 1999)	2
6-12	FAR 52.222-26, Equal Opportunity (Apr 2002) [Paragraphs (b)(1) through (b)(11) only are applicable to this subcontract.].....	2
6-13	FAR 52.223-3, Hazardous Material Identification and Material Safety Data (Jan 1997) Alternate I (Jul 1995) (As used in this clause, the "Government" means "LANS and the Government.")	2
6-14	FAR 52.225-9, Buy American Act – Construction Materials (Jan 2005) [This clause applies only if the subcontract price is less than \$6,725,000.]	2
6-15	FAR 52.225-13, Restrictions on Certain Foreign Purchases (Mar 2005)	2
6-16	FAR 52.227-3, Patent Indemnity (Apr 1984)	2
6-17	FAR 52.232-5, Payments Under Fixed-Price Construction Contracts (Sep 2002).....	2
6-18	FAR 52.236-2, Differing Site Conditions (Apr 1984).....	2
6-19	FAR 52.236-3, Site Investigation and Conditions Affecting the Work (April 1984).....	2
6-20	FAR 52.236-5, Material and Workmanship (Apr 1984).....	2
6-21	FAR 52.236-6, Superintendence by the Contractor (Apr 1984)	2
6-22	FAR 52.236-8, Other Contracts (Apr 1984)	2
6-23	FAR 52.236-9, Protection of Existing Vegetation, Structures, Equipment, Utilities and Improvements (Apr 1984)	2
6-24	FAR 52.236-10, Operations and Storage Areas (Apr 1984).....	2
6-25	FAR 52.236-11, Use and Possession Prior to Completion (Apr 1984) (As used in this clause, the reference to the clause "Permits and Responsibilities" refers to the clause "Permits and Responsibilities and Laws, Regulations, and DOE Directives.")	2
6-26	FAR 52.236-12, Cleaning Up (Apr 1984).....	2
6-27	FAR 52.236-14, Availability and Use of Utility Services (Apr 1984)	2
6-28	FAR 52.242-14, Suspension of Work (Apr 1984)	2
6-29	FAR 52.243-4, Changes (Aug 1987)	2

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

6-30	FAR 52.244-6, Subcontracts for Commercial Items (Dec 2004)	2
6-31	FAR 52.245-2, Government Property (Fixed-Price Contracts) (May 2004) as modified by DEAR 952.245-2	2
6-32	FAR 52.246-12, Inspection of Construction (Aug 1996)	2
6-33	FAR 52.246-21, Warranty of Construction (Apr 1994)(The reference to the clause, "Inspection and Acceptance," refers to the clause in the General Provisions entitled "Inspection of Construction."	2
6-34	FAR 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Apr 2003). 2	
6-35	FAR 52.249-2, Termination for Convenience of the Government (Fixed-Price) (May 2004) [Paragraph (d) is deleted and does not apply to this subcontract.]	2
6-36	DEAR 952.250-70, Nuclear Hazards Indemnity Agreement (Jun 1996)	2
6-37	FAR 52.222-27, Affirmative Action Compliance Requirements for Construction (Feb 1999)... 2	
6-38	FAR 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998)..... 2	
6-39	FAR 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001)	2
6-40	FAR 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001)	2
6-41	FAR 52.228-13, Alternative Payment Protections (Jul 2000) [This clause is not applicable if the subcontract price exceeds \$100,000.]	2
6-42	FAR 52.203-6, Restrictions on Subcontractor Sales to the Government (Jul 1995)	2
6-43	FAR 52.203-7, Anti-Kickback Procedures (Jul 1995) [Paragraph (c)(1) is deleted and does not apply to this subcontract.]	2
6-44	FAR 52.203-10, Price or Fee Adjustment for Illegal or Improper Activity (Jan 1997) (In paragraph (d) only of this clause, the term "Government" means "Government or LANS.").... 2	
6-45	FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions (Jun 2003)	2
6-46	FAR 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004)	2
6-47	FAR 52.223-13, Certification of Toxic Chemical Release Reporting (Aug 2003) [solicitation provision]	2
6-48	FAR 52.223-14, Toxic Chemical Release Reporting (Aug 2003) [Paragraph (e) is deleted and does not apply to this subcontract.]	2
6-49	FAR 52.227-1, Authorization and Consent (Aug 2002)	2
6-50	FAR 52.228-2, Additional Bond Security (Oct 1997)	2
6-51	FAR 52.228-12, Prospective Subcontractor Requests for Bonds (Oct 1995)	2
6-52	FAR 52.228-15, Performance and Payment Bonds – Construction (Jul 2000)	2
6-53	FAR 52.229-3, Federal, State, and Local Taxes (Apr 2003)	2
6-54	FAR 52.236-21, Specifications and Drawings for Construction (Feb 1997)	2
6-55	FAR 52.242-13, Bankruptcy (Jul 1995)..... 2	
6-56	FAR 52.244-2, Subcontracts (Aug 1998) [Paragraphs (e) and (k) of this clause are deleted and do not apply to this subcontract.]	2
6-57	FAR 52.247-63, Preference for U.S.-Flag Air Carriers (Jun 2003)	2
6-58	FAR 52.248-3, Value Engineering – Construction (Feb 2000)	2
6-59	FAR 52.249-10, Default (Fixed-Price Construction) (Apr 1984)	2
6-60	DEAR 970.5227-5, Notice and Assistance Regarding Patent and Copyright Infringement (Aug 2002)	2

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

6-61	DEAR 952.226-74, Displaced Employee Hiring Preference (Jun 1997)	2
6-62	DEAR 970.5226-2, Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Dec 2000).....	2
6-63	FAR 52.214-26, Audit and Records- Sealed Bidding (Oct 1997)	2
6-64	FAR 52.219-8, Utilization of Small Business Concerns (May 2004)	2
6-65	FAR 52.219-9, Small Business Subcontracting Plan (Jan 2002), Alternate I (Oct 2001).....	2
6-66	FAR 52.219-16, Liquidated Damages – Subcontracting Plan (Jan 1999).....	2
6-67	FAR 52.222-4, Contract Work Hours and Safety Standards Act - Overtime Compensation (Sept 2000)	2
6-68	FAR 52.224-1, Privacy Act Notification (Apr 1984).....	2
6-69	FAR 52.224-2, Privacy Act (Apr 1984).....	2
6-70	FAR 52.245-3, Identification of Government-Furnished Property (Apr 1984)	2
6-71	DEAR 952.204-2, Security (May 2002).....	2
6-72	DEAR 952.204-70, Classification / Declassification (Sep 1997)	2
6-73	DEAR 970.5204-1, Counterintelligence (Dec 2000).....	2
7.	LANL 126, Publicity, Advertising and Release of Information (May 2006)	2
8.	LANL 127, Non-Waiver (May 2006).....	2
9.	LANL 130, Subcontracts with LANS' Team Members and Team Member Affiliates (May 2006)	2
10.	LANL 301, Environment, Safety, and Health--Work Planning and Execution (Apr 2006)	2
11.	LANL 302, Indemnification and Hold Harmless (May 2006).....	2
12.	LANL 303, Control and Removal of Subcontractor Employees Working on Site (Apr 2006)	2
13.	LANL 304, Compliance with Laboratory Site Health and Safety Requirements (Apr 2006).....	2
14.	LANL 305, Permits and Responsibilities and Laws, Regulations, and DOE Directives (May 2006).....	2
15.	LANL 306-C, Insurance – Fixed-Price Subcontracts > \$3M (May 2006) [This clause applies only if the subcontract price exceeds \$3,000,000.]	2
16.	LANL 306-D, Insurance – Fixed-Price Subcontracts < \$3M (May 2006) [This clause applies only if the subcontract price is less than or equal to \$3,000,000.]	2
17.	LANL 308, On-site Use of Radioactive Devices (Jun 2002)	2
18.	LANL 309, Liability for Fines and Penalties (Apr 2006)	2
19.	LANL 310, Security Procedures (Apr 2006)	2
20.	LANL 311, Operations Security Program (Jun 2002)	2
21.	LANL 312, Special Radiological Conditions (Apr 2006)	2
22.	LANL 315, Certification Regarding Former LANS Employees (Apr 2006)	2
23.	LANL 320, Nuclear Hazards Indemnity and Price Anderson Act (May 2006)	2
24.	LANL 325, Commercial Activities (May 2006)	2
25.	LANL 501, Subcontractor's Superintendent (Apr 2006)	2
26.	LANL 502, Modification Proposals - Price Breakdown (Jun 2002).....	2
27.	LANL 503, LANS' Field Personnel and Inspection (Apr 2006)	2
28.	LANL 504, Construction Subcontract Special Tax Provision (Apr 2006).....	2
29.	LANL 505, Work Forces - Work Periods (Jun 2002)	2
30.	LANL 506, Storm Water Pollution Prevention Plan (Apr 2006)	2
31.	LANL 508, Subcontractor Performance Evaluation (Apr 2006).....	2
32.	LANL 509, Charges for Training, Equipment, and Materials Supplied by LANS (Apr 2006).....	2
33.	LANL 510, Damages for Delay (Apr 2006)	2

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

34.	LANL 511, Vehicular Access and Closing of Streets (Apr 2006).....	2
35.	LANL 512, Use of Explosives (Jun 2002)	2
36.	LANL 513-A, Work-Site Bulletin Board (Apr 2006).....	2
37.	LANL 514, Salvage, Recycling or Disposal of Waste Materials (Apr 2006)	2
38.	LANL 515, Testing (Apr 2006)	2
39.	LANL 516, Standards, Publications, And Other Authorities Incorporated By Reference (Jun 2002)....	2
40.	LANL 701, Preference for Local Firms in Subcontracting (Jun 2002)	2
41.	LANL 702, Unclassified Controlled Nuclear Information (Jun 2002)	2
42.	LANL 704, Responsibility for Technology Export Control (Jun 2002)	2

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

1. LANL 101, Definitions (Apr 2006)

As used in this subcontract, the following terms have the meanings stated:

- (a) "*Contract Administrator*" means the representative of LANS authorized to address contractual issues and execute and administer LANS' subcontracts at the Laboratory.
- (b) "*Contracting Officer*" or "*DOE Contracting Officer*" means the representative of DOE or NNSA with authority to enter into, administer, and terminate DOE contracts and make related determinations and findings and includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.
- (c) "*DEAR*" means the DOE Acquisition Regulation at 48 CFR Parts 901 to 970.
- (d) "*DOE*" means the United States Department of Energy.
- (e) "*FAR*" means the Federal Acquisition Regulation at 48 CFR Chapter 1.
- (f) "*Government*" means the United States of America.
- (g) "*Head of Agency*" means the Secretary, Deputy Secretary, or Under Secretary of DOE or the Administrator of NNSA.
- (h) "*Laboratory*" or "*LANL*" means the Los Alamos National Laboratory, a federally funded research and development center owned by DOE.
- (i) "*NNSA*" means the National Nuclear Security Administration.
- (j) "*LANS*" means Los Alamos National Security, LLC, a limited liability company, which operates the Laboratory for DOE pursuant to Contract No. DE-AC52-06NA25396.
- (k) "*Days*" means calendar days unless otherwise provided.

2. LANL 102, Assignment of Subcontracts (Apr 2006)

LANS may assign this subcontract to the Government or its designee. Except as to the assignment of payments due, the Subcontractor shall have no right to assign or mortgage the subcontract or any part of it without the prior written approval of the Contract Administrator.

3. LANL 103-A, Disputes (Apr 2006)

(a) *Definitions.* For purposes of this clause:

- 1) "*Board*" means the DOE Board of Contract Appeals.
- 2) "*Arbitration decision*" means a decision of the Board in an arbitration pursuant to this clause.
- 3) "*Claim*" means a written demand or written assertion by either contracting party seeking as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of a subcontract term, or other relief arising under or relating to this subcontract. A voucher, invoice, or other request for payment or equitable adjustment under the terms of the subcontract that is not in dispute when submitted is not a claim. The Subcontractor may convert such submission into a claim if it is disputed either as to liability or amount, or is not acted upon in a reasonable time, by demanding a decision by the Contract Administrator.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

- 4) “*Counterclaim*” means a claim asserted in a pleading filed with the Board in an arbitration proceeding pursuant to this clause which arises from the same occurrence or transaction that is the subject matter of the opposing party’s claim. Counterclaims do not need to be submitted to the Contract Administrator for decision.
- 5) “*Rules of the Board*” means the Board’s rules promulgated at 10 CFR Part 1023.
- (b) *Nature of the Subcontract.* This subcontract is not a Government contract and, therefore, is not subject to the Contract Disputes Act of 1978 (41 U.S.C. §§601-613). The Subcontractor acknowledges that DOE is not a party to the subcontract and, for purposes of the subcontract, LANS is not an agent of DOE. Consequently, the provision for arbitration by the Board, as provided for in this clause, does not create or imply the existence of privity of contract between the Subcontractor and DOE.
- (c) *Scope of Clause.* The rights and procedures set forth in this clause are the exclusive rights and procedures for resolution of all claims and disputes arising under, or relating to, this subcontract, and no action based upon any claim or dispute arising under, or relating to, this subcontract shall be brought in any court except as provided in this clause. The parties shall be bound by any arbitration decision rendered pursuant to this clause, which shall be vacated, modified, or corrected only as provided in the Federal Arbitration Act (9 U.S.C. §§1-16). An arbitration decision may only be enforced in any court of competent jurisdiction in the State of New Mexico.
- (d) *Filing a Claim/Contract Administrator’s Decision.*
- 1) Unless otherwise provided in this subcontract, the Subcontractor must file any claim against LANS within 60 Days after the Subcontractor knew or should have known the facts giving rise to the claim. Failure to file a claim within the period prescribed by this paragraph shall constitute a waiver of the Subcontractor’s right, if any, to an equitable adjustment under the subcontract.
 - 2) The Subcontractor shall submit any claim in writing to the Contract Administrator who shall issue a decision on the matter within 60 Days of receipt of the claim. If the Contract Administrator fails to issue a decision within 60 Days, the Subcontractor may request mediation or demand for arbitration as provided in paragraphs (e) and (f) of this clause.
 - 3) LANS may, at any time prior to final payment under the subcontract or expiration of any warranty period, whichever is later, file a claim against the Subcontractor by issuing a written decision by the Contract Administrator asserting such a claim.
 - 4) The decision of the Contract Administrator shall be final and conclusive unless the Subcontractor requests mediation or demands arbitration in accordance with the terms of this clause.
- (e) *Request for Mediation.*
- 1) If the decision of the Contract Administrator is not satisfactory to the Subcontractor or the Contract Administrator has failed to timely issue a decision in accordance with subparagraph (d) 2) of this provision and the Subcontractor desires to pursue further action, the Subcontractor may request that the matter be scheduled for mediation. The request for mediation must be made within 45 Days after receipt of the Contract Administrator’s decision.
 - 2) If the Contract Administrator believes that mediation of the dispute is likely to lead to a satisfactory resolution, he or she will so inform the Subcontractor and the matter will be scheduled for mediation. The parties will agree on the format of the mediation and will jointly

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

select the mediator. The cost of the mediator and related expenses shall be divided evenly between the parties.

- 3) If the Contract Administrator decides that mediation is not likely to lead to a satisfactory resolution of the claim, or that a mediation undertaken pursuant to this clause has been unsuccessful, he or she will so inform the Subcontractor in writing.
- (f) *Demand for Arbitration.* If the decision of the Contract Administrator is not satisfactory to the Subcontractor, or if the Subcontractor's request for mediation has been denied, or a mediation undertaken pursuant to paragraph (e) of this clause has been unsuccessful, or the Contract Administrator has failed to timely issue a decision in accordance with subparagraph (d) 2) of this provision and the Subcontractor desires to pursue further action, the Subcontractor must submit to the Board a written demand for arbitration of the claim within 45 Days after receipt of the Contract Administrator's decision, or within 45 Days after the Contract Administrator notifies the Subcontractor that its request for mediation has been denied or that the mediation undertaken pursuant to paragraph (e) has been unsuccessful, whichever is later.
- (g) *Arbitration Procedures/Costs.* The Board shall arbitrate the claim and any counterclaims in accordance with the Rules of the Board. All claims for \$100,000 or less shall be arbitrated under the Board's Small Claims (Expedited) Procedure (Rule 13). All other claims, regardless of dollar amount, shall be arbitrated under the Board's Accelerated Procedure (Rule 14). Both parties shall be afforded an opportunity to be heard and to present evidence in accordance with the Rules of the Board. Unless the Board orders otherwise, each party shall pay its own costs of prosecuting or defending an arbitration before the Board.
- (h) *Review of Arbitration Decision.* An arbitration decision shall be final and conclusive unless a party files a timely action to vacate, modify, or correct the decision pursuant to the Federal Arbitration Act.
- (i) *Subcontractor Performance Pending Claim Resolution.* The Subcontractor shall proceed diligently with performance of the subcontract and shall comply with any decision of the Contract Administrator pending final resolution of any claim or dispute arising under, or relating to, the subcontract.
- (j) *Choice of Law.* The subcontract shall be governed by federal law as provided in this paragraph. Irrespective of the place of award, execution, or performance, the subcontract shall be construed and interpreted, and its validity determined, according to the federal common law of government contracts as enunciated and applied to prime government contracts by the federal boards of contract appeals and federal courts having appellate jurisdiction over their decisions rendered pursuant to the Contract Disputes Act of 1978. The Federal Arbitration Act, other federal statutes, and federal rules shall govern as applicable. To the extent that federal common law of government contracts is not dispositive, the laws of the State of New Mexico shall apply.
- (k) *Interest.* Interest on amounts adjudicated due and unpaid by a party shall be paid from the date the complaining party files a demand for arbitration with the Board. Interest on claims shall be paid at the rate established by the Secretary of the Treasury of the United States pursuant to Public Law 92-41 (85 Stat. 97).
4. LANL 105, Whistleblower Protection for Subcontractor Employees (Mar 2003)
- (a) This subcontract makes the Subcontractor subject to the regulations at 10 CFR Part 708, DOE contractor Employee Protection Program. The Subcontractor shall inform its employees engaged in the subcontract work about these regulations by posting a notice at conspicuous places at the subcontract work site which notice shall include the following address where complaints may be filed:

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

Attention: Whistleblower Protection Officer
United States Department of Energy NNSA
Los Alamos Site Office
528 35th Street
Los Alamos, New Mexico 87544

- (b) The Subcontractor shall include the substance of this clause, including this paragraph (b), in all lower-tier subcontracts entered into pursuant to the subcontract, except for subcontracts for commercial items and components, which are not for commercial services.

5. LANL 106, LANS' Right to Offset (Apr 2006)

LANS may collect any amount determined by the Contract Administrator to be owed to LANS by offsetting the amount against any payment due to the Subcontractor under any subcontract it has with LANS issued pursuant to LANS' contract with DOE for management and operation of LANL. Any challenge to the amount of an offset under this clause shall be resolved under the Disputes clause of this subcontract.

6. LANL 107, Clauses Incorporated by Reference (May 2006)

- (a) The Federal Acquisition Regulation (FAR) and the DOE Acquisition Regulation (DEAR) clauses listed below, which are codified in Chapters 1 and 9, respectively, of Title 48 of the Code of Federal Regulations, are, as prescribed below, incorporated into the subcontract by this reference as a part of these General Provisions with the same force and effect as if they were given in full text. The full text of the clauses may be accessed electronically at <http://acquisition.gov/comp/far/index.html> (FAR) and <http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Procurement/Acquisition+Regulation?OpenDocument> (DEAR).
- (b) The Subcontractor is bound by each of the FAR and DEAR clauses listed in this clause to the same extent that a prime contractor would be bound to the Government in a prime contract with the same clauses. The application of these clauses to the subcontract is governed solely by the provisions of this clause and not by guidance provided in the FAR and DEAR.
- (c) Wherever necessary to make the context of the unmodified FAR and DEAR clauses applicable to this subcontract:
- 1) The term "Contractor" and "contract" shall mean "Subcontractor" and "subcontract," except when the reference is to the "prime contractor" and "prime contract;"
 - 2) The term "Government," "Contracting Officer" and equivalent phrases shall mean "LANS and/or LAN'S representative"; except the terms "Government" and "Contracting Officer" do not change:
 - (i) In the phrases "Government Property," "Government-Furnished Property," and "Government-Owned Property;"
 - (ii) In any patent clauses incorporated herein;
 - (iii) When a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or his duly authorized representative;
 - (iv) When title to property is to be transferred directly to the Government;
 - (v) When access to proprietary financial information or other proprietary data is required except for authorized audit rights; and

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

- (vi) Where specifically modified herein.
- 3) For authorized audit rights, the term "Contracting Officer, or an authorized representative of the Contracting Officer" shall also include "LANS, or an authorized representative of LANS."
- (d) The following clauses apply to this subcontract regardless of the amount of the subcontract price, unless otherwise noted:
- 6-1 FAR 52.222-6, Davis-Bacon Act (Jul 2005)
 - 6-2 FAR 52.222-7, Withholding of Funds (Feb 1988)
 - 6-3 FAR 52.222-8, Payrolls and Basic Records (Feb 1988)
 - 6-4 FAR 52.222-9, Apprentices and Trainees (Jul 2005)
 - 6-5 FAR 52.222-10, Compliance with Copeland Act Requirements (Feb 1988)
 - 6-6 FAR 52.222-11, Subcontracts (Labor Standards) (Jul 2005)
 - 6-7 FAR 52.222-12, Contract Termination--Debarment (Feb 1988)
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 - 6-9 FAR 52.222-14, Disputes Concerning Labor Standards (Feb 1988)
 - 6-10 FAR 52.222-15, Certification of Eligibility (Feb 1988)
 - 6-11 FAR 52.222-21, Prohibition of Segregated Facilities (Feb 1999)
 - 6-12 FAR 52.222-26, Equal Opportunity (Apr 2002) [Paragraphs (b)(1) through (b)(11) only are applicable to this subcontract.]
 - 6-13 FAR 52.223-3, Hazardous Material Identification and Material Safety Data (Jan 1997) Alternate I (Jul 1995) (As used in this clause, the "Government" means "LANS and the Government.")
 - 6-14 FAR 52.225-9, Buy American Act – Construction Materials (Jan 2005) [This clause applies only if the subcontract price is less than \$6,725,000.]
 - 6-15 FAR 52.225-13, Restrictions on Certain Foreign Purchases (Mar 2005)
 - 6-16 FAR 52.227-3, Patent Indemnity (Apr 1984)
 - 6-17 FAR 52.232-5, Payments Under Fixed-Price Construction Contracts (Sep 2002)
 - 6-18 FAR 52.236-2, Differing Site Conditions (Apr 1984)
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 - 6-21 FAR 52.236-6, Superintendence by the Contractor (Apr 1984)
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 - 6-35 FAR 52.249-2, Termination for Convenience of the Government (Fixed-Price) (May 2004) [Paragraph (d) is deleted and does not apply to this subcontract.]

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

6-36 DEAR 952.250-70, Nuclear Hazards Indemnity Agreement (Jun 1996)

(e) The following clauses apply only if the subcontract price is \$10,000 or more:

6-37 FAR 52.222-27, Affirmative Action Compliance Requirements for Construction (Feb 1999)

(f) The following clauses apply only if the subcontract price exceeds \$10,000:

6-38 FAR 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998)

(g) The following clauses apply only if the subcontract price is \$25,000 or more:

6-39 FAR 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001)

6-40 FAR 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001)

6-41 FAR 52.228-13, Alternative Payment Protections (Jul 2000) [This clause is not applicable if the subcontract price exceeds \$100,000.]

(h) The following clauses apply only if the subcontract price exceeds \$100,000:

6-42 FAR 52.203-6, Restrictions on Subcontractor Sales to the Government (Jul 1995)

6-43 FAR 52.203-7, Anti-Kickback Procedures (Jul 1995) [Paragraph (c)(1) is deleted and does not apply to this subcontract.]

6-44 FAR 52.203-10, Price or Fee Adjustment for Illegal or Improper Activity (Jan 1997) (In paragraph (d) only of this clause, the term "Government" means "Government or LANS.")

6-45 FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions (Jun 2003)

6-46 FAR 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004)

6-47 FAR 52.223-13, Certification of Toxic Chemical Release Reporting (Aug 2003) [solicitation provision]

6-48 FAR 52.223-14, Toxic Chemical Release Reporting (Aug 2003) [Paragraph (e) is deleted and does not apply to this subcontract.]

6-49 FAR 52.227-1, Authorization and Consent (Aug 2002)

6-50 FAR 52.228-2, Additional Bond Security (Oct 1997)

6-51 FAR 52.228-12, Prospective Subcontractor Requests for Bonds (Oct 1995)

6-52 FAR 52.228-15, Performance and Payment Bonds – Construction (Jul 2000)

6-53 FAR 52.229-3, Federal, State, and Local Taxes (Apr 2003)

6-54 FAR 52.236-21, Specifications and Drawings for Construction (Feb 1997)

6-55 FAR 52.242-13, Bankruptcy (Jul 1995)

6-56 FAR 52.244-2, Subcontracts (Aug 1998) [Paragraphs (e) and (k) of this clause are deleted and do not apply to this subcontract.]

6-57 FAR 52.247-63, Preference for U.S.-Flag Air Carriers (Jun 2003)

6-58 FAR 52.248-3, Value Engineering – Construction (Feb 2000)

6-59 FAR 52.249-10, Default (Fixed-Price Construction) (Apr 1984)

6-60 DEAR 970.5227-5, Notice and Assistance Regarding Patent and Copyright Infringement (Aug 2002)

(i) The following clauses apply only if the subcontract price exceeds \$500,000:

6-61 DEAR 952.226-74, Displaced Employee Hiring Preference (Jun 1997)

6-62 DEAR 970.5226-2, Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Dec 2000)

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

- (j) The following clauses apply only if the subcontract price exceeds \$550,000:

6-63 FAR 52.214-26, Audit and Records- Sealed Bidding (Oct 1997)

- (k) The following clause applies only if the subcontract price exceeds \$1,000,000 and offers subcontracting opportunities:

6-64 FAR 52.219-8, Utilization of Small Business Concerns (May 2004)

- (l) The following clause applies only if the subcontract price exceeds \$500,000, the Subcontractor is a large business, and FAR 52.219-8 is applicable:

6-65 FAR 52.219-9, Small Business Subcontracting Plan (Jan 2002), Alternate I (Oct 2001)

6-66 FAR 52.219-16, Liquidated Damages – Subcontracting Plan (Jan 1999)

- (m) The following clause applies only if the subcontract price exceeds \$100,000, is for non-commercial items, and may require or involve the substantial employment of laborers or mechanics:

6-67 FAR 52.222-4, Contract Work Hours and Safety Standards Act - Overtime Compensation (Sept 2000)

- (n) The following clauses apply only if the statement of work requires the design, development, or operation of a system of records on individuals:

6-68 FAR 52.224-1, Privacy Act Notification (Apr 1984)

6-69 FAR 52.224-2, Privacy Act (Apr 1984)

- (o) The following clause applies only if government owned property is furnished to the Subcontractor for use in performing the work.

6-70 FAR 52.245-3, Identification of Government-Furnished Property (Apr 1984)

- (p) The following clauses apply only if the Subcontractor requires access to classified information or a significant amount of special nuclear material, or requires issuance of personnel security access authorization(s) in order to perform subcontract work.

6-71 DEAR 952.204-2, Security (May 2002)

6-72 DEAR 952.204-70, Classification / Declassification (Sep 1997)

6-73 DEAR 970.5204-1, Counterintelligence (Dec 2000)

7. LANL 126, Publicity, Advertising and Release of Information (May 2006)

Subcontractor shall not make any announcement, take any photographs, or release any information concerning this subcontract, or the Laboratory, or any part thereof to any member of the public, press, business entity, or any official body unless prior written consent is obtained from the Contract Administrator. Publication or other presentation of material, data, record charts, graphs, or other records developed or maintained under this subcontract is prohibited except as approved in writing in advance by the Classification Office. All Subcontractor requests for review and approval shall be addressed to the Contract Administrator.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

8. LANL 127, Non-Waiver (May 2006)

- (a) None of the following shall operate as, or be deemed to be, a waiver or release of Subcontractor's obligations under this subcontract:
 - 1) Failure by LANS to insist upon strict performance of any terms or conditions of this subcontract;
 - 2) Failure or delay to exercise any rights or remedies provided herein or by law;
 - 3) The acceptance of or payment for any goods or services hereunder;
 - 4) Failure to properly notify Subcontractor in the event of breach of any obligation;
 - 5) The review or failure by LANS to review Subcontractor submissions;
 - 6) The inspection and test by LANS or the failure to inspect and test the work; and
 - 7) The termination either in whole or in part of work under this subcontract.
- (b) LANS reserves the right to insist upon strict performance hereof, and to exercise any of its rights or remedies as to any prior or subsequent default hereunder.

9. LANL 130, Subcontracts with LANS' Team Members and Team Member Affiliates (May 2006)

- (a) As used in this provision:
 - 1) Team Members means any of the following entities: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., Professional Project Services, Inc. and DreamTech Solutions, LLC doing business as Ngenuity.
 - 2) Team Member Affiliate means any person or entity which is a wholly owned, majority owned, or otherwise an affiliate of any Team Member. The term 'affiliate' is defined at FAR. 2.101.
- (b) Because of restrictions in the contract between NNSA and LANS concerning the payment of fee or profit when subcontracting with any Team Member or any Team Member Affiliate, as well as Organizational Conflict of Interest concerns, neither a Subcontractor nor any tier of its lower tier subcontractors or suppliers shall enter into a subcontract with any Team Member or any Team Member Affiliate without the advance written approval of the Contract Administrator.
- (c) Subcontractors shall include the substance of this provision in all lower tier subcontracts and purchase orders.

10. LANL 301, Environment, Safety, and Health--Work Planning and Execution (Apr 2006)

- (a) For purposes of this clause, the term "employee" includes subcontractor employees at any tier.
- (b) The Subcontractor shall perform the subcontract work safely, in a manner that ensures adequate protection for employees, the public, and the environment. The Subcontractor shall exercise a degree of care commensurate with the work and the associated hazards. The Subcontractor shall ensure that management of environmental, safety, and health (ES&H) functions and activities are an integral and visible part of the Subcontractor's work planning and execution processes. The Subcontractor shall, in the performance of the work, ensure that:

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

- 1) Line management is responsible for the protection of employees, the public, and the environment. Line management includes those employees, at whatever tier, managing and supervising the work.
 - 2) Clear and unambiguous lines of authority and responsibility for ES&H matters are established and maintained.
 - 3) Employees possess the experience, knowledge, skills, and abilities that are necessary to discharge their responsibilities.
 - 4) Resources are effectively allocated to address ES&H considerations and ES&H issues are given priority.
 - 5) Before work is performed, the associated hazards are evaluated and ES&H standards and requirements are established for the work, which if properly implemented, provide adequate protection for employees, the public, and the environment.
 - 6) Administrative and engineering controls to prevent injury to employees and harm to the environment are tailored to the hazards of the work being performed.
- (c) In order to accomplish the requirement of paragraph (b) above, the Subcontractor shall have in place safety management procedures which assure that:
- 1) before work is performed, the scope of the work is defined; hazards associated with the work are identified and analyzed; and hazard controls are developed and implemented; and
 - 2) during performance, the work is carried out within the controls developed and feedback on the adequacy of the controls is provided to improve overall safety management.
- (d) The Subcontractor shall comply with ES&H requirements of all applicable laws and regulations and with DOE Directives and other requirements which are identified in the subcontract. The Subcontractor shall cooperate with federal and state agencies having jurisdiction over ES&H matters under the subcontract.
- (e) The Subcontractor shall promptly evaluate and resolve any noncompliance with applicable ES&H requirements. If the Subcontractor fails to provide resolution or if, at any time, the Subcontractor's acts or failure to act causes substantial harm or an imminent danger to the environment or health and safety of employees or the public, the Contract Administrator may issue an order stopping work in whole or in part. Any stop work order issued by the Contract Administrator under this clause (or issued by the Subcontractor to a lower-tier subcontractor) shall be without prejudice to any other legal or contractual rights of LANS. In the event that the Contract Administrator issues a stop work order, an order authorizing the resumption of the work may be issued at the discretion of the Contract Administrator. The Subcontractor shall not be entitled to an extension of time or additional fee, costs, or damages by reason of, or in connection with, any work stoppage ordered in accordance with this clause.
- (f) Regardless of the performer of the work, the Subcontractor is responsible for compliance with ES&H requirements applicable to the work.
- (g) The Subcontractor shall include a clause substantially the same as this clause in subcontracts under the subcontract for work on site. The Subcontractor is responsible for flowing down to its subcontractors any other requirements of the subcontract related to ES&H matters to the extent necessary to ensure subcontractors' compliance with such requirements.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

11. LANL 302, Indemnification and Hold Harmless (May 2006)

- (a) To the maximum extent permitted by applicable law, but no further, Subcontractor hereby releases and shall indemnify, defend and hold harmless LANS, the Government and their subsidiaries and affiliates and the officers, agents, employees, successors and assigns and authorized representatives of all the foregoing from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs, expenses, and losses of whatsoever kind or nature (collectively "Losses") in connection with or incidental to the performance of this subcontract, whether arising before or after completion of the work hereunder and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault or negligence whether active or passive of Subcontractor, its lower-tier suppliers, subcontractors or of anyone acting under its direction or control or on its behalf. Notwithstanding the foregoing, however, to the extent such Losses result from the negligence, act or omission of the indemnified party, Subcontractor's liability for such Losses shall only apply to the extent such Losses are caused by, or arise out of the acts, omissions, fault or negligence of Subcontractor or its lower-tier suppliers, subcontractors or of anyone acting under its direction or control or on its behalf.
- (b) The foregoing shall include, but is not limited to, indemnity for:
 - 1) Property damage and injury to or death of any person, including employees of LANS, Government or Subcontractor.
 - 2) The breach by Subcontractor of any representation, warranty, covenant, or performance obligation of this subcontract.

12. LANL 303, Control and Removal of Subcontractor Employees Working on Site (Apr 2006)

- (a) The Subcontractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, integrity, and compliance with subcontract requirements including site-specific requirements. Should the Contract Administrator determine that an employee of the Subcontractor or its lower-tier subcontractors fails to meet any of these standards, the Subcontractor shall immediately remove such person from the work site, and that person shall not again, without written permission of the Contract Administrator, be allowed back on the work site.
- (b) LANS, in its sole discretion, may temporarily or permanently bar from the work site and any location at the Laboratory any employee of the Subcontractor or its lower-tier subcontractors who does not work in a safe manner, as demonstrated either by repeated violations or a single serious violation of safety requirements applicable to the subcontract work.
- (c) The Subcontractor will not be compensated for any costs resulting from its removal of employees from the work site or from LANS barring an employee from the work site and the Laboratory.
- (d) The Subcontractor shall include this clause, including this paragraph (d) in all lower-tier subcontracts which require work to be performed at LANL.

13. LANL 304, Compliance with Laboratory Site Health and Safety Requirements (Apr 2006)

- (a) The Subcontractor shall comply and shall be responsible for the compliance of its lower-tier subcontractors with all DOE/NNSA and Laboratory health and safety requirements, including reporting requirements, and with the regulations and standards of the Occupational Safety and Health Administration (OSHA). In addition the Subcontractor shall require its employees and the employees of its lower-tier subcontractors to comply with Los Alamos National Laboratory Administrative Manual (AM) 110, Substance Abuse to the same extent as LANS' employees.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

- (b) If requested by the Contract Administrator, the Subcontractor shall submit a safety management program and implementation plan to the Contract Administrator for review and approval. Such program and plan, if required, shall be submitted within 25 Days of the effective date of the subcontract.
- (c) Failure of the Subcontractor to comply with the health and safety requirements identified in this clause and other clauses of the subcontract, or with any corrective action directed by the Contract Administrator to achieve compliance with such requirements, shall be cause for the Contract Administrator, in his/her sole discretion, to suspend work under the General Provision entitled *Environment, Safety, and Health—Work Planning and Execution*, or to terminate the subcontract for default under the General Provision entitled *Termination for Cause*. A suspension of the subcontract work or a termination of the subcontract for failure to comply with health and safety requirements will be considered in determining whether the Subcontractor, or any of its lower-tier subcontractors whose actions led to the suspension or default termination, is a responsible bidder or offeror for any subsequent subcontract with LANS.

14. LANL 305, Permits and Responsibilities and Laws, Regulations, and DOE Directives (May 2006)

- (a) The Subcontractor shall, without additional expense to LANS, be responsible for obtaining any necessary licenses and permits; for complying with any Federal, State, and local laws and regulations applicable to the performance of the work; and for the compliance of its lower-tier subcontractors with such laws and regulations.
- (b) The Subcontractor shall be responsible for compliance with the requirements of all DOE Directives, compliance with which is required by other provisions of these General Provisions, and with those DOE Directives, if any, which are listed in the Supplemental Provisions and made applicable to the subcontract. Copies of all such DOE Directives may be obtained from the Contract Administrator.

15. LANL 306-C, Insurance – Fixed-Price Subcontracts > \$3M (May 2006) [This clause applies only if the subcontract price exceeds \$3,000,000.]

- (a) Unless otherwise specified in this subcontract, Subcontractor shall, at its sole expense, maintain in effect at all times during the performance of the work insurance coverage with limits not less than those set forth below with insurers and under forms of policies satisfactory to LANS. Subcontractor shall deliver to the Contract Administrator no later than ten (10) Days after subcontract award, but in any event prior to commencing the work or entering on site, certificates of insurance as evidence that policies providing such coverage and limits of insurance are in full force and effect. Certificates shall be issued in the form provided by LANS or if none is provided in a form acceptable to LANS and provide that not less than thirty (30) Days advance written notice will be given to LANS prior to cancellation, termination or material alteration of said policies of insurance. Certificates shall identify on their face the project name and the applicable subcontract number.
 - 1) Standard Workers' Compensation Coverage as required by any applicable law or regulation. However, if there is an exposure of injury to Subcontractor's employees under the U.S. Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.
 - 2) Employer's Liability of not less than \$1,000,000 each accident.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

3) General Liability Insurance

- (i) Coverage - Subcontractor shall carry Commercial General Liability Insurance covering all operations by or on behalf of Subcontractor providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:
- (A) Premises and Operations;
 - (B) Products and Completed Operations;
 - (C) Contractual Liability applying to the indemnity agreement in General Provision entitled "Indemnification and Hold Harmless;"
 - (D) Broad Form Property Damage (including Completed Operations);
 - (E) Explosion, Collapse and Underground Hazards; and
 - (F) Personal Injury Liability.

The Commercial General Liability insurance shall be the Occurrence Coverage Form.

- (ii) Policy Limits - For Subcontractor's Commercial General Liability Insurance, the limits of liability for bodily injury, property damage, and personal injury shall be not less than:
- \$2,000,000 Combined single limit for Bodily Injury and Property Damage each occurrence;
 - \$2,000,000 Personal Injury Limit each occurrence;
 - \$4,000,000 Products-Completed Operations Annual Aggregate Limit; and
 - \$4,000,000 General Annual Aggregate Limit (other than Products-Completed Operations).

If the CGL policy does not have an endorsement providing the General Annual Aggregate limits are as indicated above, then Subcontractor shall provide an endorsement titled "Amendment of Limits of Insurance (Designated Project or Premises)." Such endorsement shall provide for a Products-Completed Operations Annual Aggregate Limit of not less than \$2,000,000 and a General Annual Aggregate Limit of not less than \$2,000,000. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

(iii) Additional Insureds

- (A) Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates, and the officers, directors, and employees of the foregoing each as Additional Insured under the Commercial General Liability Insurance policy, and under any Pollution Liability Insurance required under this clause, but only with respect to liability arising out of the operations for LANS and Government by or for Subcontractor, and only to the maximum extent permitted by applicable law but no further. The United States Insurance Services Office (ISO) form CG 20 10 shall be attached to the policy. Such insurance shall include an Insurer's waiver of subrogation in favor of the Additional Insureds, be primary as regards any other coverage maintained for or by the Additional Insureds, and shall contain a cross-liability or severability of interest clause.
- (B) In lieu of naming LANS and Government as Additional Insureds under the Commercial General Liability policy, Subcontractor may, at LANS'S sole discretion and not as an option, provide Owners and Contractors Protective Liability Insurance. If Subcontractor carries Owners and Contractors Protective Liability Insurance the policy shall have a combined single limit for Bodily Injury or Property Damage of not less than \$2,000,000 Each Occurrence and \$2,000,000 Annual Aggregate. If the policy covers more than one project, this subcontract shall be designated in the Policy Declarations. The policy shall

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

name LANS and Government, their officers, directors, and employees, as Named Insured.

- 4) Automobile Liability Insurance including coverage for the operation of any vehicle to include, but not limited to, owned, hired and non-owned. The combined single limit for Bodily Injury and Property Damage Liability shall be not less than \$2,000,000 for any one accident or loss. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy. Subcontractor's Automobile Liability Insurance shall include coverage for Automobile Contractual Liability.
- 5) In the event Subcontractor maintains insurance covering loss or damage to equipment, tools, or any other property of Subcontractor such insurance shall include an Insurer's waiver of subrogation in favor of Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates.
- 6) Builders Risk Insurance, including LANS and Government as Additional Insured, and written on an "All Risk" basis with a limit equal to the total installed cost of the Subcontractor's work. "Total installed cost" shall include the value of material and equipment provided by LANS and Government while such property is in the care, custody, and control of Subcontractor. This insurance will cover all material and equipment installed or to be installed in permanent buildings and facilities and will include coverage for material in transit and in offsite storage. In addition, Subcontractor's insurer shall waive its right of subrogation against Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates. Should any loss or damage to the work occur, deductibles under this policy shall be for Subcontractor's account.

(b) Special Operations Coverage: Should any of the Work:

- 1) Involve marine operations, Subcontractor shall provide or have provided coverage for liabilities arising out of such marine operations, including contractual liability under its Commercial General Liability Insurance or Marine Hull and Machinery Insurance and Protection and Indemnity Insurance. In the event such marine operations involve any Subcontractor owned, hired, chartered, or operated vessels, barges, tugs or other marine equipment, Subcontractor agrees to provide or have provided Marine Hull and Machinery Insurance and Protection and Indemnity Insurance and/or Charterer's Liability Insurance. The combined limit of the Protection and Indemnity Insurance and/or Charterer's Liability Insurance shall be no less than the market value of the vessel. The Protection and Indemnity and/or Charterer's liability and the Hull and Machinery coverage's shall include coverage for contractual liability, wreck removal, Tower's liability if applicable; and full collision coverage and shall be endorsed:
 - (i) To provide full coverage to Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates, and the officers, directors, and employees of the foregoing each as Additional Insured, without limiting coverage to liability "as owner of the vessel" and to delete any "as owner" clause or other language that would limit coverage to liability of an insured "as owner of the vessel;" and
 - (ii) To waive any limit to full coverage for the Additional Insured's provided by any applicable liability statute.

All marine insurances provided by Subcontractor shall include an Insurer's waiver of subrogation in favor of the Additional Insured's.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

- 2) Involve aircraft (fixed wing or helicopter) owned, operated or chartered by the Subcontractor, liability arising out of such aircraft shall be insured for a combined single limit not less than \$10,000,000 each occurrence and such limit shall apply to Bodily Injury (including passengers) and Property Damage Liability. Such insurance shall name Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates, and the officers, directors, and employees of the foregoing each as Additional Insured, include an Insurer's waiver of subrogation in favor of the Additional Insured's, state that it is primary insurance as regards the Additional Insured's and contain a cross-liability or severability of interest clause. If the aircraft hull is insured such insurance shall provide for an Insurer's waiver of subrogation rights in favor of Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates. In the event Subcontractor charts aircraft, the foregoing insurance and evidence of insurance may be furnished by the owner of the chartered aircraft, provided the above requirements are met.
 - 3) Involve investigation, removal or remedial action concerning the actual or threatened escape of hazardous substances, Subcontractor shall also carry Pollution Liability Insurance in an amount not less than \$2,000,000 per occurrence/annual aggregate. If Completed Operations is limited in the policy, such Completed Operation Coverage shall be for a period of not less than five (5) years. Such insurance shall include a three (3) year extended discovery period and shall name LANS and Government and their subsidiaries and affiliates as Additional Insured.
 - 4) Involve inspection, handling or removal of asbestos, Subcontractor shall also carry Asbestos Liability Insurance in an amount not less than \$2,000,000 per occurrence/annual aggregate. The policy shall be written on an "Occurrence Basis" with no sunset clause. Such insurance shall name LANS and Government and their subsidiaries and affiliates as Additional Insured's.
 - 5) Involve transporting hazardous substances, Subcontractor shall also carry Business Automobile Insurance covering liability arising out of the transportation of hazardous materials in an amount not less than \$2,000,000 per occurrence. Such policy shall include Motor Carrier Endorsement MCS-90. NEITHER LANS NOR GOVERNMENT IS TO BE NAMED AN ADDITIONAL INSURED FOR THIS POLICY.
 - 6) Involve treatment, storage or disposal of hazardous wastes, Subcontractor shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Environmental Liability Insurance in the amount of not less than \$5,000,000 per occurrence/annual aggregate.
- (c) Related Obligations:
- 1) The requirements contained herein as to types and limits, as well as LANS' approval of insurance coverage to be maintained by Subcontractor, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Subcontractor under this subcontract.
 - 2) The Certificates of Insurance must provide clear evidence that Subcontractor's Insurance Policies contain the minimum limits of coverage and the special provisions prescribed in this clause.
- (d) LANS or Government Furnished Insurance:
Neither LANS nor Government is maintaining any insurance on behalf of Subcontractor covering against loss or damage to the work or to any other property of Subcontractor unless otherwise specifically stated herein and as may be described by appendix hereto.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

(e) Notifications:

In accordance with the submittal requirements outlined above, Subcontractor shall deliver the original and two (2) copies of the Certificate(s) of Insurance required by this clause and all subsequent notices of cancellation, termination and alteration of such policies to the Contract Administrator.

16. LANL 306-D, Insurance – Fixed-Price Subcontracts < \$3M (May 2006) [This clause applies only if the subcontract price is less than or equal to \$3,000,000.]

(a) Unless otherwise specified in this subcontract, Subcontractor shall, at its sole expense, maintain in effect at all times during the performance of the work insurance coverage with limits not less than those set forth below with insurers and under forms of policies satisfactory to LANS. Subcontractor shall deliver to the Contract Administrator no later than ten (10) Days after subcontract award, but in any event prior to commencing the work or entering on site, certificates of insurance as evidence that policies providing such coverage and limits of insurance are in full force and effect. Certificates shall be issued in the form provided by LANS or if none is provided in a form acceptable to LANS and provide that not less than thirty (30) Days advance written notice will be given to LANS prior to cancellation, termination or material alteration of said policies of insurance. Certificates shall identify on their face the project name and the applicable subcontract number.

1) Standard Workers' Compensation Coverage as required by any applicable law or regulation. However, if there is an exposure of injury to Subcontractor's employees under the U.S. Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

2) Employer's Liability of not less than \$500,000 each accident.

3) General Liability Insurance

- (i) Coverage - Subcontractor shall carry Commercial General Liability Insurance covering all operations by or on behalf of Subcontractor providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:
- (A) Premises and Operations;
 - (B) Products and Completed Operations;
 - (C) Contractual Liability applying to the indemnity agreement in General Provision entitled "Indemnification and Hold Harmless;"
 - (D) Broad Form Property Damage (including Completed Operations);
 - (E) Explosion, Collapse and Underground Hazards; and
 - (F) Personal Injury Liability.

The Commercial General Liability insurance shall be the Occurrence Coverage Form.

- (ii) Policy Limits - For Subcontractor's Commercial General Liability Insurance, the limits of liability for bodily injury, property damage, and personal injury shall be not less than:
- | | |
|-------------|------------------------------------------------------------------------------|
| \$1,000,000 | Combined single limit for Bodily Injury and Property Damage each occurrence; |
| \$1,000,000 | Personal Injury Limit each occurrence; |
| \$2,000,000 | Products-Completed Operations Annual Aggregate Limit; and |
| \$2,000,000 | General Annual Aggregate Limit (other than Products-Completed Operations). |

If the CGL policy does not have an endorsement providing the General Annual Aggregate limits are as indicated above, then Subcontractor shall provide an endorsement titled "Amendment of Limits of Insurance (Designated Project or Premises)." Such endorsement

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

shall provide for a Products-Completed Operations Annual Aggregate Limit of not less than \$2,000,000 and a General Annual Aggregate Limit of not less than \$2,000,000. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

(iii) Additional Insureds

- (A) Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates, and the officers, directors, and employees of the foregoing each as Additional Insured under the Commercial General Liability Insurance policy, and under any Pollution Liability Insurance required under this clause, but only with respect to liability arising out of the operations for LANS and Government by or for Subcontractor, and only to the maximum extent permitted by applicable law but no further. The United States Insurance Services Office (ISO) form CG 20 10 shall be attached to the policy. Such insurance shall include an Insurer's waiver of subrogation in favor of the Additional Insureds, be primary as regards any other coverage maintained for or by the Additional Insureds, and shall contain a cross-liability or severability of interest clause.
 - (B) In lieu of naming LANS and Government as Additional Insureds under the Commercial General Liability policy, Subcontractor may, at LANS' sole discretion and not as an option, provide Owners and Contractors Protective Liability Insurance. If Subcontractor carries Owners and Contractors Protective Liability Insurance the policy shall have a combined single limit for Bodily Injury or Property Damage of not less than \$2,000,000 Each Occurrence and \$2,000,000 Annual Aggregate. If the policy covers more than one project, this subcontract shall be designated in the Policy Declarations. The policy shall name LANS and Government, their officers, directors, and employees, as Named Insured.
- 4) Automobile Liability Insurance including coverage for the operation of any vehicle to include, but not limited to, owned, hired and non-owned. The combined single limit for Bodily Injury and Property Damage Liability shall be not less than \$1,000,000 for any one accident or loss. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy. Subcontractor's Automobile Liability Insurance shall include coverage for Automobile Contractual Liability.
 - 5) In the event Subcontractor maintains insurance covering loss or damage to equipment, tools, or any other property of Subcontractor such insurance shall include an Insurer's waiver of subrogation in favor of Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates.
 - 6) Builders Risk Insurance, including LANS and Government as Additional Insured, and written on an "All Risk" basis with a limit equal to the total installed cost of the Subcontractor's work. "Total installed cost" shall include the value of material and equipment provided by LANS and Government while such property is in the care, custody, and control of Subcontractor. This insurance will cover all material and equipment installed or to be installed in permanent buildings and facilities and will include coverage for material in transit and in offsite storage. In addition, Subcontractor's insurer shall waive its right of subrogation against Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates. Should any loss or damage to the Work occur, deductibles under this policy shall be for Subcontractor's account.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

(b) Special Operations Coverage: Should any of the Work:

- 1) Involve marine operations, Subcontractor shall provide or have provided coverage for liabilities arising out of such marine operations, including contractual liability under its Commercial General Liability Insurance or Marine Hull and Machinery Insurance and Protection and Indemnity Insurance. In the event such marine operations involve any Subcontractor owned, hired, chartered, or operated vessels, barges, tugs or other marine equipment, Subcontractor agrees to provide or have provided Marine Hull and Machinery Insurance and Protection and Indemnity Insurance and/or Charterer's Liability Insurance. The combined limit of the Protection and Indemnity Insurance and/or Charterer's Liability Insurance shall be no less than the market value of the vessel. The Protection and Indemnity and/or Charterer's liability and the Hull and Machinery coverage's shall include coverage for contractual liability, wreck removal, Tower's liability if applicable; and full collision coverage and shall be endorsed:
 - (i) To provide full coverage to Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates, and the officers, directors, and employees of the foregoing each as Additional Insured without limiting coverage to liability "as owner of the vessel" and to delete any "as owner" clause or other language that would limit coverage to liability of an insured "as owner of the vessel;" and
 - (ii) To waive any limit to full coverage for the Additional Insured's provided by any applicable liability statute.

All marine insurances provided by Subcontractor shall include an Insurer's waiver of subrogation in favor of the Additional Insured's.

- 2) Involve aircraft (fixed wing or helicopter) owned, operated or chartered by the Subcontractor, liability arising out of such aircraft shall be insured for a combined single limit not less than \$10,000,000 each occurrence and such limit shall apply to Bodily Injury (including passengers) and Property Damage Liability. Such insurance shall name Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates, and the officers, directors, and employees of the foregoing each as Additional Insured, include an Insurer's waiver of subrogation in favor of the Additional Insured's, state that it is primary insurance as regards the Additional Insured's and contain a cross-liability or severability of interest clause. If the aircraft hull is insured such insurance shall provide for an Insurer's waiver of subrogation rights in favor of Government, LANS and its members: Bechtel National, Inc., the Regents of the University of California, Washington Group International, Inc., BWX Technologies, Inc., and their respective subsidiaries and affiliates. In the event Subcontractor charts aircraft, the foregoing insurance and evidence of insurance may be furnished by the owner of the chartered aircraft, provided the above requirements are met.
- 3) Involve investigation, removal or remedial action concerning the actual or threatened escape of hazardous substances, Subcontractor shall also carry Pollution Liability Insurance in an amount not less than \$2,000,000 per occurrence/annual aggregate. If Completed Operations is limited in the policy, such Completed Operation Coverage shall be for a period of not less than five (5) years. Such insurance shall include a three (3) year extended discovery period and shall name LANS and Government and their subsidiaries and affiliates as Additional Insured.
- 4) Involve inspection, handling or removal of asbestos, Subcontractor shall also carry Asbestos Liability Insurance in an amount not less than \$2,000,000 per occurrence/annual aggregate. The policy shall be written on an "Occurrence Basis" with no sunset clause. Such insurance shall name LANS and Government and their subsidiaries and affiliates as Additional Insured's.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

- 5) Involve transporting hazardous substances, Subcontractor shall also carry Business Automobile Insurance covering liability arising out of the transportation of hazardous materials in an amount not less than \$2,000,000 per occurrence. Such policy shall include Motor Carrier Endorsement MCS-90. NEITHER LANS NOR GOVERNMENT IS TO BE NAMED AN ADDITIONAL INSURED FOR THIS POLICY.
- 6) Involve treatment, storage or disposal of hazardous wastes, Subcontractor shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Environmental Liability Insurance in the amount of not less than \$5,000,000 per occurrence/annual aggregate.

(c) Related Obligations:

- 1) The requirements contained herein as to types and limits, as well as LANS' approval of insurance coverage to be maintained by Subcontractor, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Subcontractor under this subcontract.
- 2) The Certificates of Insurance must provide clear evidence that Subcontractor's Insurance Policies contain the minimum limits of coverage and the special provisions prescribed in this clause.

(d) LANS or Government Furnished Insurance:

Neither LANS nor Government is maintaining any insurance on behalf of Subcontractor covering against loss or damage to the work or to any other property of Subcontractor unless otherwise specifically stated herein and as may be described by appendix hereto.

(e) Notifications:

In accordance with the submittal requirements outlined above, Subcontractor shall deliver the original and two (2) copies of the Certificate(s) of Insurance required by this clause and all subsequent notices of cancellation, termination and alteration of such policies to the Contract Administrator.

17. LANL 308, On-site Use of Radioactive Devices (Jun 2002)

No radioactive material may be used or stored at the work site unless approved in advance in writing by the Contract Administrator.

18. LANL 309, Liability for Fines and Penalties (Apr 2006)

The Subcontractor shall be responsible, at no expense to LANS, for the payment of all fines, penalties, and other assessments imposed as a result of the Subcontractor's performance of the subcontract work. If the fine, penalty, or other assessment results in part from the actions or failure to act of LANS or its employees, LANS will be responsible for its *pro rata* share of such fine, penalty, or assessment. If, for any reason, LANS is required to pay the fine, penalty, or other assessment for which the Subcontractor is liable under this clause, the subcontract price or allowable costs, as applicable, shall be reduced by the amount of such fine, penalty, or other assessment.

19. LANL 310, Security Procedures (Apr 2006)

- (a) Badges Required for Work on Site. All employees of the Subcontractor and its lower-tier subcontractors, who will be assigned to work on site at LANL, (for purposes of this clause, hereinafter called "Subcontract Workers") must obtain a badge issued by LANL. Badges will be Uncleared, L Cleared, or Q Cleared, as appropriate for the type of work and the location of work of the Subcontract

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

Worker. Unless otherwise provided in this clause, the Subcontractor shall make requests for badges through the Contract Administrator or the Technical Representative, if any, for this subcontract.

- (b) Final Payment and Disposition of Badges. All badges issued by LANL are the property of the Government. The Subcontractor is responsible for all badges issued to Subcontract Workers for the subcontract. Whenever the work under the subcontract requires the issuance of badges of any kind, the Contract Administrator may withhold final payment to the Subcontractor until all such badges are returned or otherwise disposed of as described in this clause or as directed by the Contract Administrator.
- (c) Non-U.S. Citizens on the Work Site. The Subcontractor shall take effective measures to determine the citizenship of all Subcontract Workers and shall not permit persons who are not United States citizens to enter such sites except as provided in this clause. If the Subcontractor intends to employ non-U.S. citizens, the Subcontractor must comply with DOE and LANL Foreign Visits and Assignments procedures and obtain approval for such individuals to enter the work site pursuant to those procedures. Copies of the requirements and procedures associated with Foreign Visits and Assignments may be obtained from the Contract Administrator. There is no assurance LANS will grant any particular request for access by a non-U.S. citizen pursuant to these procedures. The presence of non-U.S. citizens on the work site without appropriate approval could result in termination of the subcontract.
- (d) Name, Address, and Citizenship of Subcontract Workers. The Subcontractor shall provide, upon request by the Contract Administrator, the name of any Subcontract Worker together with the individual's address and citizenship.
- (e) Actions Affecting Security Fences. Whenever the subcontract specifications require any digging of holes under security fencing, cutting or removing of security fencing, altering of gates or otherwise providing access into security areas by means other than established access points, the Subcontractor shall carry out such actions only in the presence of a Protective Force Security Inspector and only after obtaining approval from the Contract Administrator 48 hours in advance. At the end of each work day, the Subcontractor shall repair, replace, or provide adequate barriers to preclude unauthorized entry into Security Areas through the holes dug or cuts in security fences or through modified gates or other alteration of the security perimeters. Such barriers shall be inspected and approved by the Contract Administrator. The Subcontractor shall make arrangements through the Contract Administrator to assure that a LANL Protective Force Security Inspector is on site to guard any temporary opening during the workday.
- (f) Persons and Personal Property Subject to Search. All persons, vehicles, parcels, etc., are subject to search when entering or leaving any posted Government property at LANL.
- (g) Access to Areas Requiring "L" or "Q" Clearances.
 - 1) Prior to commencing work, the Subcontractor shall meet with LANS' security representatives to review security measures that apply to the subcontract work and Subcontract Workers.
 - 2) All Subcontract Workers must be U.S. citizens and must possess DOE "L" or "Q" access authorizations or have been issued an "Escort Required" badge and be escorted at all times while within the area by a person possessing a DOE "Q" or "L" access authorization.
 - 3) Escorts for entry of uncleared Subcontract Workers into security areas shall be arranged with the Contract Administrator. Payment for escort services shall be the responsibility of the Subcontractor.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

- 4) The number of escorts required for a given project shall be based on the number of uncleared personnel working within an area and the capability for visual contact with all uncleared personnel at all times by the escort or escorts. A general rule of thumb is that an escort can act as escort for a maximum of 4 or 5 people who require escorting.
 - 5) Vehicles driven by uncleared drivers delivering construction materials or other supplies will be permitted to enter Security Areas provided they have been issued an "Escort Required" badge and are under escort of personnel possessing "Q" or "L" access authorization as appropriate for the delivery site.
 - 6) Procedures and policies for Security Badges can be found in LANL Laboratory Implementation Requirements LIR 406-00-02.0, *Classified Security*, Attachment 18, *Escorting U.S. Citizens in Security Areas*. The Contract Administrator will provide a hard copy of this LIR upon request by the Subcontractor.
- (h) "L" or "Q" Clearance Process and Badging.
- 1) Prior to the issuance of "L" or "Q" badges to Subcontract Worker, the Subcontractor shall have submitted and obtained a favorable Foreign Ownership, Control, or Influence (FOCI) determination.
 - 2) For each Subcontract Worker to be processed for an "L" or "Q" access authorization, the following information shall be provided:
 - a. Completed *Personnel Security Questionnaire* (Form SF-86), Parts I and II.
 - b. One Security Acknowledgment (DOE F 5631.18).
 - c. Two Fingerprint Cards (FD-258).
 - d. If the Subcontract Worker is a military veteran, one copy of Separation from Military Service (DD Form 214) or other acceptable evidence of military service.
 - e. Authority for Release of Information (DOE F 5637.1).
 - f. Two Fair Credit Release Act forms
 - g. Other forms as required by DOE
 - 3) If a clearance is granted, the cleared Subcontract Worker shall attend an indoctrination security lecture at the LANL Badge Office before issuance of badge. Badges will be valid for the duration of the subcontract or the duration of employment, whichever is shorter.
 - 4) All personnel shall display security badges on their outer clothing above the waistline while in Security Areas and shall remain within their assigned work areas.
- (i) Time and Cost of Complying with Security Requirements. The requirements for securing eligible personnel and proper personnel security clearances for work within "L" and "Q" clearance areas and for complying with other security regulations and procedures shall not be considered cause for an extension of time for performance of the subcontract work or for extra payments under the subcontract. The cost of processing DOE "Q" or "L" access authorizations, however, will be borne by the Government.
- (j) Responsibility for Protection of Property. Notwithstanding the fact that the subcontract work is being performed within a DOE-posted area, a "Q" Cleared Area, or an "L" Cleared area, the Subcontractor shall be responsible for protection of property associated with the subcontract work.
- (k) Security Termination Process. The Subcontractor shall conduct, or have conducted by its lower-tier subcontractors, for each Subcontract Worker who has been issued a cleared badge, a Security Termination Briefing, shall obtain a Security Termination Statement, DOE Form 5631.29, and shall

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

make the disposition of badges as indicated in the figure below . Such actions shall be carried out within 2 working days of an event described in the first column of the figure below.

Event	Do Termination Briefing & Submit DOE Form 5631.29*For	Return These Badges
Terminate Employment	Individual Subcontract Worker	Individual's, whether cleared or uncleared, including expired
Transfer Individual From Subcontract	Individual Subcontract Worker	Individual's, whether cleared or uncleared, including expired
Clearance no longer required	All Subcontract Workers	All cleared badges, including expired
FOCI Approval Withdrawn	All Subcontract Workers	All cleared badges, including expired
Subcontract completed/ Terminated	All Subcontract Workers	All badges, whether cleared or uncleared, including expired

*DOE Form 5631.29 shall be submitted and all badges retrieved from Subcontract Workers as described in the figure above shall be turned in at the LANL Clearance Processing Office.

- (I) Lost or Stolen Badges. If a badge is lost, the Subcontractor shall ensure that the individual badge holder comes to the Badge Office and files a written affidavit of such, using a Notification of Permanent Inactivation of Badge form (Laboratory Form 1672, or as amended or superceded), in order to obtain a replacement badge. If a badge is stolen, the individual badge holder must file Laboratory Form 1672 as above and also report the theft to the Contract Administrator.

20. LANL 311, Operations Security Program (Jun 2002)

The Subcontractor shall implement and sustain a DOE Operations Security (OPSEC) Program in accordance with the provisions of the LANL manual entitled "Operations Security Program Guidance for LANL Subcontractors." The Subcontractor may obtain copies of this manual from the Contract Administrator.

21. LANL 312, Special Radiological Conditions (Apr 2006)

All work which is performed or scheduled to be performed by the Subcontractor within a radiation control area shall be in accordance with the provisions of this clause.

(a) Compliance with Procedures

The Subcontractor shall insure that all persons under its control comply with the regulations and procedures pertaining to control of radiation and/or contamination which are set out or provided for herein or in other provisions of the subcontract.

(b) Allowable Exposure Limits

- 1) It is expected that each individual will be permitted to work in a radiation control area a minimum of forty (40) hours during any seven (7) consecutive days without exceeding the established permissible limits of radiation as specified in DOE Order 5480.11. The Subcontractor shall manage the work to insure the limit is not exceeded. The Subcontractor shall be responsible for keeping records of each employee's current radiation exposure status before assigning an employee to work in a radiation control area and for controlling each of its employees' exposure to ionizing radiation below 1.5 rem per calendar year.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

- 2) Individuals under 18 years of age shall be excluded from radiation control areas. In any case where the external exposure status of an individual becomes uncertain, or when administrative controls have been exceeded due to an unplanned amount of radiation dose, the individual(s) involved shall be prohibited from further radiation work.

- 3) All exposures to radiation shall be maintained as low as reasonably achievable.

(c) Modification of Requirements for Radiation Control Areas

If the type or amount of radioactive material encountered is different than expected, LANS may modify or change subcontract requirements pertaining to radiation exposure limits, boundaries, permissible exposure rates, protective clothing, and exposure time of personnel.

(d) Suspension of Work

- 1) LANS may require suspension of all or part of the work in progress if unfavorable radiation control practices or conditions are detected, such as the following:
 - Potential of contamination resulting from excessive winds or uncovering of surface contamination.
 - Increase of working personnel dose rates above anticipated levels resulting from inadequate control of process control factors or other unanticipated problems beyond the control and without the fault or negligence of the Subcontractor.
 - Noncompliance with Radiation Controls/Procedures or potential of contamination resulting from poor work practices by the Subcontractor.
- 2) Work will not be resumed until a satisfactory resolution is determined by the Contract Administrator after consultation with the Subcontractor and Laboratory radiation control representatives.
- 3) If the conditions requiring such suspension of work are beyond the control and without the fault or negligence of the Subcontractor and such conditions cause an increase or decrease in the Subcontractor's cost of or time required for performance of the work, an equitable adjustment shall be made in accordance with the *Stop-Work Order* or *Suspension of Work* clause of the subcontract.

(e) Radiological Training and Medical Examination

- 1) The Subcontractor shall require all persons under its control to attend an orientation session prior to their initial entry into a radiation control area. The Subcontractor shall require all personnel to attend daily safety briefings (approximately 15 minutes) prior to start of each day's work.
- 2) The Subcontractor shall obtain a medical clearance for each employee required to use a respirator prior to the employee's training in the proper use of a respirator, prior to fitting the employee for a respirator and prior to the employee's first entry into a radiation control area when a respirator is required; and the Subcontractor shall further obtain such follow up medical clearances as may be required by the Contract Administrator. OSHA Respirator Medical Evaluation Questionnaires are available from OSHA or from the Contract Administrator.
- 3) All time spent by Subcontractor's employees in orientation, radiation training and medical examinations shall be at the expense of the Subcontractor.
- 4) The Subcontractor understands the significant time required to perform necessary radiation protection steps for working in radiation control areas. Examples of some of the time requirements follow:

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

- Respirator fitting, approximately 2 hours per person.
 - Protective clothing and/or equipment donning, approximately 1 to 2 hours per day.
 - Radiation protection orientation, up to 4 hours per session.
- 5) All personnel working in radiation control areas where respiratory protection is required, or may be required, and all personnel required to be fitted for respiratory protection shall remove facial hair prior to beginning work in the radiation control area or appearing for fitting of the respiratory protection.
- (f) Control of Personnel Entering a Radiation Control Area
- 1) Unless otherwise directed by LANS, the Subcontractor shall not permit any person under its control to enter a radiation control area unless a LANS' representative is present to specify the protective clothing and radiation instruments to be used, to provide radiation monitoring services, and to provide any other necessary service with respect to control of radiation and/or contamination.
 - 2) The Subcontractor shall have and maintain a daily log of all work in a radiation control area. The log shall include a description of the work item and the names of personnel assigned to each work item. The log shall be made available to the Contractor Administrator upon request. The Subcontractor shall provide the name, social security number and previous radiation exposure history for each person prior to assignment to work in a radiation control area.
- (g) Use of Protective Clothing, Respiratory Equipment, and Dosimeters
- 1) All persons working in or entering a radiation control area will be required to wear protective clothing. Removal of outer personal clothing may be required.
 - 2) Personal items normally worn and/or carried in clothing pockets shall be removed prior to entering/working in the radiation control area. These items include watches, rings, jewelry, keys, knives, etc.
 - 3) All persons will be required to carry, in the Laboratory prescribed manner, dosimeters while within the radiation control area. Note: Dosimeters shall be exchanged on a monthly basis. The Subcontractor's shall ensure that its employees cooperate with LANS in the exchange of dosimeters and the weekly gamma pencil dosimeter readings, if needed.
 - 4) The Contract Administrator will determine the requirements for and provide all necessary protective clothing and equipment for proper respiratory protection in a radiation control area.
- (h) Control of Personal Habits
- The Subcontractor shall require all persons under its control to comply with the regulations forbidding employees to eat, drink, smoke, or perform any act involving the transfer of any item from the hands to the body while within a Radiation Control Area. Personnel will be allowed to smoke, drink, and use toilet facilities in a designated area only upon the removal of the outer layer of protective clothing (if two layers of protective clothing are required) and completion of a radiation survey for possible contamination. Personnel will not be allowed to eat food of any type within the Radiation Control Area. Food may be consumed outside of the Radiation Control Area only after complete removal of ALL protective clothing and the completion of a radiation survey for possible contamination.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

(i) Temporary Support Facilities

The Subcontractor shall locate its offices, latrines, lunchroom, and all other facilities not essential for work within a radiation control area, in areas designated or approved by the Contract Administrator outside of the radiation control area.

(j) Control of Personnel Leaving Radiation Control Area

LANS will survey all persons leaving a radiation control area for possible contamination. This survey will require approximately one (1) to five (5) minutes per person per exit. LANS will periodically survey all subcontractor personnel for possible contamination whether or not a radiation control area is established within the Subcontractor's work area. Any decontamination services required will be performed by LANS. The Subcontractor shall require all subcontractor personnel assigned to work in a radiation control area to submit to bioassay sampling, or participate in necessary tests, as directed by the Contract Administrator. Samples will be taken and testing will be performed by the Laboratory. The bioassay programs or tests may include, but not be limited to, urine samples, nose swipes, and whole body count.

(k) Decontamination of Individuals

Should contamination be detected on a person being surveyed, the individual will be properly decontaminated. All decisions regarding extent of contamination and control measures to be applied will be made by LANS.

(l) Disposition of Contaminated Personal Property

- 1) The Subcontractor agrees to submit to LANS for survey and decontamination, if necessary, and for destruction or other disposal if LANS should determine that decontamination is impracticable, any equipment, tools, or other personal property brought into the radiation control area by the Subcontractor, its employees, and any lower-tier subcontractor and its employees.
- 2) The necessary survey for detection of contamination will be performed immediately prior to the removal of any property from a radiation control area and may also be performed before the movement of any such property from any location within LANL.
- 3) An equitable adjustment, excluding profit, in the subcontract price will be made for all work performed by the Subcontractor, at the direction of LANS, in connection with decontamination of equipment. An equitable adjustment will also be made in the subcontract price for any personal property of the Subcontractor, its employees, and any lower-tier subcontractor and its employees, destroyed or damaged as a result of contamination not due to their fault or negligence.

22. LANL 315, Certification Regarding Former LANS Employees (Apr 2006)

- (a) LANS' employees who retire under the LANS Retirement System (LRS) are required to have a true and complete severance from LANS before working as an employee under this subcontract. Ordinarily, unless otherwise approved by the Contract Administrator in writing, this requires that (i) there was no discussion or prior agreement about working as an employee between the Subcontractor and the retiring LANS' employee until at least 30 Days had occurred after the date of retirement, and (ii) at least 90 Days have elapsed since the date of retirement.
- (b) LANS' employees who have been terminated for cause or who have resigned in lieu of termination for cause are prohibited from returning to work at the Laboratory for a period of seven years. Unless otherwise approved by the Contract Administrator in writing, the Subcontractor may not employ such

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

former employees (i) for any on-site work or (ii) for any work under this subcontract in which such former employees may have any direct or indirect substantive contact with a LANS' employee.

- (c) In order to assure compliance with subparagraphs (a) and (b), the Subcontractor must, with respect to its employees who are assigned to work under this subcontract, certify that it is not employing any individuals under the subcontract who are not eligible to work as set forth in paragraphs (a) and (b). Such certification must be provided in writing to the Contract Administrator before the start of work under the subcontract and, thereafter, on a quarterly basis.
- (d) In making this certification the Subcontractor may rely on information provided by its applicants for employment or its employees so long as the Subcontractor has exercised due diligence and has, at a minimum, obtained the following information from each applicant or employee: whether the applicant or employee is a former employee of LANS or of a LANS' subcontractor under a Laboratory subcontract, and if so, the date of separation; whether the applicant or employee is a member of LRS; and whether the separation was the result of retirement, termination, or resignation in lieu of termination.
- (e) The Subcontractor shall include this clause, including this paragraph (e), in all lower-tier subcontracts awarded pursuant to this subcontract. The term "Subcontractor" as used in this clause means a subcontractor at any tier.

23. LANL 320, Nuclear Hazards Indemnity and Price Anderson Act (May 2006)

- (a) The provisions of 48 CFR 952.250-70, Nuclear Hazards Indemnity Agreement, are incorporated by reference into this subcontract, for the delivery of any product or service which has nuclear safety implications. Subcontractor shall flow down this provision to all subcontractors and suppliers unless expressly waived in writing by the Contract Administrator.
- (b) The U.S. Department of Energy (DOE) will indemnify Subcontractor against (i) claims for public liability, and (ii) legal costs arising from any nuclear incidence, in accordance with the provisions of 48 CFR 952.250-70.
- (c) The Department of Energy has promulgated Procedural Rules (10 CFR 820) and Quality Assurance (10 CFR 830 Subpart A), Occupational Radiation Protection Rules (10 CFR 835), and Worker Health and Safety Program (10 CFR 851) in implementation of the Price Anderson Amendment Act (PAAA) of 1988, Public Law 100-408, August 20, 1988. These rules govern the conduct of persons involved in DOE nuclear activities, and in particular, are designed to achieve compliance with DOE nuclear safety issues. Violation of the applicable rules will provide a basis for the assessment of civil and criminal penalties.
- (d) The Subcontractor shall indemnify LANS for any civil penalties levied against LANS, pursuant to Section 234A of the Atomic Energy Act of 1954 as amended, for any violations of applicable DOE nuclear-safety related rules, regulations, or orders committed by Subcontractor or its lower-tier subcontractors and suppliers.

24. LANL 325, Commercial Activities (May 2006)

Neither Subcontractor nor its employees shall establish any commercial activity or issue concessions or permits of any kind to third parties for establishing commercial activities on the site or any other lands owned or controlled by LANS or Government.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

25. LANL 501, Subcontractor's Superintendent (Apr 2006)

- (a) In accordance with the General Provision Clause entitled *Superintendence by the Contractor*, the Subcontractor shall, within ten Days after subcontract award, submit to the Contract Administrator for LANS' approval, the name, résumé, and list of three references for the proposed superintendent. Within fourteen Days of receipt of the information, LANS shall approve or disapprove the superintendent in writing. If the superintendent is disapproved by LANS, the Subcontractor shall submit the name, résumé, and list of references for an alternate superintendent within fourteen Days after receipt of a notice that a previously proposed superintendent has been disapproved.
- (b) The Subcontractor's superintendent must be an employee of the Subcontractor.

26. LANL 502, Modification Proposals - Price Breakdown (Jun 2002)

In connection with any proposal it makes for a subcontract modification, the Subcontractor shall furnish a price breakdown itemized as required by the Contract Administrator. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, lower-tier subcontract costs and the Subcontractor's overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any amount for lower-tier subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification shall be furnished. The proposal, together with the price breakdown and time extension justification, shall be furnished by such date as may be specified by the Contract Administrator. Finally, the proposal shall include costs and time, if any, arising from the necessary, reasonable, and foreseeable effect the modification has on unchanged work.

27. LANL 503, LANS' Field Personnel and Inspection (Apr 2006)

The work is subject to the general oversight of the Contract Administrator and is subject to inspection by his or her duly appointed inspectors to insure strict compliance with the terms of this subcontract. No inspector is authorized to change any provision of the Drawings and Specifications, nor shall the presence or absence of any inspector relieve the Subcontractor from any requirements of this subcontract. The designated Construction Inspector has the authority to inspect the work for quality and compliance with the Drawings and Specifications; establish lines, grades and controls for the work; and to recommend changes to the Contract Administrator pursuant to the General Provision entitled *Changes*. No interpretation of this subcontract or direction shall be binding upon LANS unless it is in writing and signed by the Contract Administrator.

28. LANL 504, Construction Subcontract Special Tax Provision (Apr 2006)

- (a) The New Mexico Gross Receipt Tax imposed upon and measured by the money received by the Subcontractor for performance of this subcontract is a tax included in the subcontract price under paragraph (b) of the General Provision entitled *Federal, State and Local Taxes*. The Subcontractor shall include allowance for any increase or decrease in the tax rate and shall not make a claim against LANS for any increase or decrease during the subcontract period.
- (b) Notwithstanding paragraph (b) of the General Provision entitled *Federal, State and Local Taxes*, the subcontract price does not include any New Mexico Gross Receipts Tax levied upon or measured by property or services, or the value thereof, furnished by LANS, under this subcontract. The Subcontractor agrees to notify the Contract Administrator promptly of the imposition on the Subcontractor by the New Mexico Taxation and Revenue Department of any tax described in the preceding sentence and to refrain from paying such tax unless authorized in writing by the Contract Administrator.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

- (c) The Subcontractor agrees to take any and all action directed by the Contract Administrator to resist the imposition of taxes described in paragraph (b) of this provision, including, but not limited to, the institution in the Subcontractor's name of appropriate administrative or judicial proceedings prescribed by the New Mexico Tax Administration Act.
- (d) Provided the Subcontractor complies with all provisions of paragraphs (b) and (c) above and with the instructions of the Contract Administrator issued thereunder, the Subcontractor shall, in addition to the subcontract price, be reimbursed for the payment of taxes described in paragraph (b) plus all reasonable costs incurred by the Subcontractor as a result of compliance with such provisions and instructions, including but not limited to, penalties, interest, attorney's fees and other costs of legal proceedings.

29. LANL 505, Work Forces - Work Periods (Jun 2002)

- (a) The Subcontractor shall furnish sufficient forces, construction plant, and equipment, and shall work such hours, including night shifts, overtime operations, Sunday and holiday work as may be necessary, to insure the prosecution of the work in accordance with the approved progress schedule. Before commencing work, the Subcontractor shall furnish a program of shifts, hours, and days per week to be worked and the approximate number of persons per shift. The Subcontractor shall notify the Contract Administrator 48 hours in advance of any change to the program.
- (b) If in the opinion of the Contract Administrator, the Subcontractor falls behind the progress schedule, the Subcontractor shall take such steps as may be necessary to improve its progress. The Contract Administrator may direct the Subcontractor to conduct overtime operations and to increase the number of employees or shifts or both, days of work, or the amount of construction plant, or all of them, and to submit for approval such supplementary schedules or schedules in chart form as may be deemed necessary to demonstrate the manner in which the agreed rate of progress will be regained.
- (c) Failure of the Subcontractor to comply with the requirements of this provision shall be grounds for determination by the Contract Administrator that the Subcontractor is not prosecuting the work with such diligence as will insure completion of the subcontract within the time specified. (See General Provision entitled *Default (Fixed-Price Construction)*.)

30. LANL 506, Storm Water Pollution Prevention Plan (Apr 2006)

- (a) The Subcontractor is required to comply with the requirements imposed by the National Pollutant Discharge Elimination System (NPDES) regulations (40 CFR 122.26) including, but not limited to, the requirements published in the Federal Register: "Final National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities", 69 FR 39087 July 1, 2003 and successive regulations published on or before the date of this subcontract.
- (b) The Subcontractor agrees to obtain an NPDES permit separate from LANS and further agrees to require its lower-tier subcontractors with day-to-day operational control of subcontract activities to obtain a separate permit
- (c) The Subcontractor shall submit its Notice of Intent (NOI) to the Environmental Protection Agency (EPA), with a copy to the Contract Administrator and shall not commence construction until receipt is acknowledged by EPA.
- (d) The Subcontractor agrees to supply all requested information in the Storm Water Pollution Prevention (SWPP) Plan within 14 Days after award of the subcontract in sufficient format and detail as may be required by the Contract Administrator for completion of the SWPP Plan, which Plan shall be certified by an appropriate official of LANS and a responsible corporate officer of the Subcontractor prior to the

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

NOI submittal. The Subcontractor agrees to continue to submit such additional information to and to otherwise cooperate and work with LANS to maintain/modify the SWPP Plan throughout the duration of this subcontract.

- (e) The Subcontractor agrees to promptly correct deficiencies noted by LANS during SWPP Plan inspections.
- (f) The Subcontractor agrees to provide the Contract Administrator, within 30 Days after award of the subcontract, a Schedule of Implementation of the NPDES Permit, and with the approval of the Contract Administrator shall begin implementation of the schedule.
- (g) Within 10 Days after final stabilization of the site, as determined by LANS' Technical Representative, the Subcontractor shall submit its Notice of Termination (NOT) to EPA. If the subcontract is terminated before final stabilization of the site is achieved, the Subcontractor shall submit its NOT to EPA. LANS reserves the right to take such action as it considers necessary which may include taking over responsibility for final stabilization. The NOT must be submitted prior to final payment under the subcontract.
- (h) All temporary and permanent controls and measures specified by the SWPP Plan and those which may later become necessary to comply with NPDES regulations, shall be at the Subcontractor's expense, and shall be included in the subcontract price.
- (i) In the event that the Subcontractor fails to implement the provisions of this clause or the NPDES Permit and SWPP Plan, LANS may take action as it deems necessary to assure compliance with NPDES regulations. In this event, all such measures taken by LANS shall be at the Subcontractor's expense, and the cost thereof shall be deducted from payments otherwise due the Subcontractor.

31. LANL 508, Subcontractor Performance Evaluation (Apr 2006)

- (a) The Subcontractor will be evaluated by LANS periodically during the performance of the subcontract in the areas of General Performance, Schedule Performance, Safety Performance, Security Performance and any other matters related to performance of the subcontract work, including the performance of lower-tier subcontractors. The Contract Administrator may prepare and provide to the Subcontractor a preliminary Subcontractor Periodic Performance Report on which the Subcontractor may comment. The Subcontractor's comments must be provided to the Contract Administrator within 15 Days from the date of transmittal of the preliminary report to the Subcontractor. Upon receipt of any comments from the Subcontractor or the passage of 15 Days without comments having been received, the Contract Administrator shall prepare a final Subcontractor Periodic Performance Report, if one has been initiated.
- (b) Upon completion of the subcontract, the Contract Administrator shall prepare and provide to the Subcontractor a preliminary Final Subcontractor Performance Report based upon the periodic reports, if any, and other information developed during the course of performance. The Subcontractor may comment on this report by submitting its comments to the Contract Administrator within 15 Days from the date of transmittal of the preliminary report to the Subcontractor. Upon receipt of any comments from the Subcontractor or the passage of 15 Days without comments having been received, the Contract Administrator shall prepare the Final Subcontractor Performance Report for the Subcontractor's file.
- (c) Subcontractor Performance Reports are among the types of information which are considered in determining a bidder's or offer's qualifications for work at LANL.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

32. LANL 509, Charges for Training, Equipment, and Materials Supplied by LANS (Apr 2006)

If the Subcontractor does not possess some of the personnel training or certification, equipment, materials, or other items it is required to have or provide under the subcontract, LANS in its discretion may offer such items to the Subcontractor, subject to availability and schedule. For any such items furnished by LANS, the Subcontractor shall reimburse LANS' costs. This reimbursement may be accomplished at the option of LANS either by direct check payment from the Subcontractor or by withholding such sums from payment otherwise due the Subcontractor. Any such furnishing of training or other items shall not be cause for any extension of time or increase in subcontract price.

33. LANL 510, Damages for Delay (Apr 2006)

- (a) Unless the Schedule provides for the imposition of liquidated damages for delay, the Subcontractor shall be liable and shall pay for any actual damages suffered by LANS or the Government for failure or refusal of the Subcontractor to complete the work within the time specified in the subcontract. The Subcontractor authorizes LANS to withhold from any money due to the Subcontractor any actual damages suffered by LANS or the Government for delay in the completion of work.
- (b) Actual damages will be assessed until the Contract Administrator determines that the subcontract is substantially complete. Substantial completion is defined as "when the work or designated portion thereof is sufficiently complete, in accordance with the subcontract documents, so LANS may occupy the work or designated portion thereof for the use for which it is intended."

34. LANL 511, Vehicular Access and Closing of Streets (Apr 2006)

- (a) When operations in connection with the subcontract work necessitate the closing of streets, removal of traffic signs or interference with normal traffic, the Subcontractor shall arrange such activity in advance with the Contract Administrator and, when appropriate, the Los Alamos Police Department. In addition, the Subcontractor shall provide and maintain appropriate barricades, signs, markers, flares or other devices as may be required by the Police Department for traffic guidance and public safety. Barricades, traffic control devices and signs so provided shall meet the requirements set forth in the current edition of the "Manual on Uniform Traffic Control Devices" (U.S. Department of Transportation).
- (b) The Subcontractor shall maintain a minimum of one open traffic lane at all times during construction.
- (c) The Subcontractor, upon completion of its work or when directed by the Contract Administrator, shall immediately replace (or relocate and install, as directed) all presently existing safety, security, utility and similar markers and signs affected by the construction. All damaged signs will be replaced by LANS at the Subcontractor's expense.

35. LANL 512, Use of Explosives (Jun 2002)

The use of explosives is not permitted, unless conditions for their use and the Subcontractor's liability therefore are expressly stated in the Specifications or unless such use is authorized in writing by the Contract Administrator with express conditions concerning use and liability.

36. LANL 513-A, Work-Site Bulletin Board (Apr 2006)

The Subcontractor shall provide and maintain during the entire period covered by this subcontract a weather-tight Bulletin Board approximately 3' high by 5' long. It shall be mounted in a conspicuous place, as approved by the Contract Administrator, accessible to all employees of the Subcontractor and lower-tier subcontractors. The bulletin board will remain the property of the Subcontractor. All LANS' posters and notices, the subcontract Davis-Bacon wage rate decision, Subcontractor Safety Program, and any

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

other publications required by this subcontract to be posted or of interest to workers at the site shall be displayed.

37. LANL 514, Salvage, Recycling or Disposal of Waste Materials (Apr 2006)

- (a) Salvaged materials, if any, shall be handled as provided in various sections of the Specifications of the subcontract.
- (b) The Subcontractor shall remove and dispose of all scrap and waste materials from LANL at an appropriate off site facility at no additional cost to LANS. Waste material includes brush, trees, rock, dirt, abandoned and removed concrete structures or broken concrete, removed building components, removed piping and other utilities, all other removed materials not specified as salvaged materials in various sections of the Specifications of the subcontract, and all surplus and waste materials brought to the site by the Subcontractor. In compliance with the Resource Conservation and Recovery Act, the Subcontractor is encouraged to find alternative uses for waste materials such as remanufacture into recycled products, or reuse for other legal non-waste purposes. In any event the Subcontractor shall recycle glass, aluminum and cardboard unless exempted in writing by the Contract Administrator. Any salvage value from recycling or reuse of waste materials shall be considered to be included in the subcontract price.
- (c) All materials removed from the site are to be handled and disposed of in accordance with local, state and Federal regulations and any other requirements identified to the Subcontractor by the Contract Administrator. The Subcontractor shall provide to the LANS' Technical Representative a weekly truck activity report for every load hauled. This report shall provide the following information:
 - Pick-up location
 - Approximate weight
 - Type material
 - Where dumped
 - Recycling or alternative uses
 - Date of pick-up and delivery
- (d) Burning of waste material is not permitted.

38. LANL 515, Testing (Apr 2006)

- (a) Unless specifically stated to the contrary in the Specifications of the subcontract, all testing shall be performed and paid for by the Subcontractor. The Subcontractor shall notify the Contractor Administrator a minimum of 48 hours in advance of all testing. All such tests shall be made in the presence of the Contract Administrator. Should the Contract Administrator waive this right the Subcontractor shall provide three (3) certified copies of the test results upon completion of the tests made and the results thereof shall be furnished to the Contract Administrator as soon as possible after the tests are made.
- (b) Tests to be performed at LANS' expense will be performed by LANS or an independent testing organization of LANS' choice. If initial tests reveal that subcontract requirements have not been met, additional testing shall be performed at the Subcontractor's expense after equipment and facilities have been brought into compliance.
- (c) The Subcontractor shall cooperate fully with LANS and its testing organization. The Subcontractor shall provide personnel and special equipment to provide adjustments and start-up for the LANS' selected testing organization.
- (d) In addition to the foregoing, the Subcontractor shall perform any additional inspections and testing necessary to insure quality control of the work.

**Los Alamos National Laboratory
GENERAL PROVISIONS
SEALED-BID CONSTRUCTION SUBCONTRACTS**

39. LANL 516, Standards, Publications, And Other Authorities Incorporated By Reference (Jun 2002)

Unless otherwise specifically provided, the current edition of each publication, standard, or other authority incorporated by reference into the Specifications shall govern. "Current edition" means that revision in effect on the latest date of the solicitation or any addenda to the solicitation. In the event of a discrepancy or conflict between any such publications, standards or other authorities incorporated by reference and any express provision of the subcontract, the subcontract shall govern.

40. LANL 701, Preference for Local Firms in Subcontracting (Jun 2002)

The Subcontractor shall, with respect to lower-tier subcontracts issued pursuant to this subcontract, utilize firms located in Northern New Mexico to the maximum extent possible consistent with prudent business practices and providing best value under the subcontract.

41. LANL 702, Unclassified Controlled Nuclear Information (Jun 2002)

- (a) Documents originated by the Subcontractor or furnished to the Subcontractor in connection with the subcontract may contain Unclassified Controlled Nuclear Information, also referred to as UCNI, as defined in Section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. §2168). The Subcontractor shall be responsible for protecting such information from unauthorized dissemination in accordance with DOE Regulations at 10 CFR Section 1017.17 and relevant DOE Directives. The Subcontractor may obtain copies of such DOE Directives from the Contract Administrator.
- (b) Failure to comply with the requirements of Section 148 of the Atomic Energy Act of 1954 and the regulations at 10 CFR Section 1017.17 may result in the imposition of a civil penalty of up to \$100,000 for each violation.

42. LANL 704, Responsibility for Technology Export Control (Jun 2002)

- (a) The Subcontractor shall comply with all applicable United States export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799 in the performance of this subcontract. In the absence of available license exemptions/exceptions, the Subcontractor shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data and software, or for the provision of technical assistance.
- (b) The Subcontractor shall be responsible for obtaining export licenses, if required, before exporting or allowing access to export-controlled technical data or software to foreign nationals in the performance of this subcontract.
- (c) The Subcontractor shall be responsible for all regulatory record-keeping requirements.
- (d) The Subcontractor shall be responsible for ensuring that this clause, including this paragraph (d), is included in all appropriate lower-tier subcontracts.